

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DONALD CONKLIN, III,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:21-CV-137
)	
UNITED STATES DEPARTMENT OF TREASURY; INTERNAL REVENUE SERVICE,)	
)	
Defendants.)	

MEMORANDUM ORDER

This action was received by the Clerk of Court on May 17, 2021. The matter was referred to United States Magistrate Judge Richard A. Lanzillo, for report and recommendation in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

Petitioner Donald Conklin, III (“Petitioner”) filed a petition for writ of mandamus against the United States Department of Treasury and the Internal Revenue Service (“Respondents”), seeking payment of CARES Act Economic Impact payments of \$1800.00. *See* ECF No. 3. Currently pending before the Court is Respondents’ Motion for Summary Judgment, ECF No. 17.

On July 7, 2022, Magistrate Judge Lanzillo issued a Report and Recommendation recommending that the motion for summary judgment be GRANTED and that the petition be dismissed for a lack of subject matter jurisdiction. *See* ECF No. 21. A copy of the Report and Recommendation was mailed to the Petitioner’s address of record on that date. That mailing has

now been returned to the Court as the Conklin refused to accept it. See ECF No. 22. To date, no objections to the Report and Recommendation have been filed.

When no objections are made to the report and recommendation of a magistrate judge, the Court should, as a matter of good practice, “satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Fed. R. Civ. P. 72(b); advisory committee notes; *see also Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987) (explaining judges should give some review to every report and recommendation). Nevertheless, whether timely objections are made or not, district courts may accept, reject, or modify—in whole or in part—the magistrate judge’s findings or recommendations. 28 U.S.C. § 636(b)(1); Local Rule 72(D)(2).

Upon *de novo* review, the Court finds no error in Magistrate Judge Lanzillo’s Report and Recommendation. After reviewing the petition, and the motion for summary judgment, as well as the documents in support of the motion as submitted by the Respondents, together with the report and recommendation, the following order is entered:

1. The Respondents’ Motion for Summary Judgment [ECF No. 17] is hereby GRANTED;
2. The Petition for Writ of Mandamus [ECF No. 3] is hereby dismissed for a lack of subject matter jurisdiction; and
3. IT IS FURTHER ORDERED that the Report and Recommendation of Magistrate Judge Lanzillo, issued on July 7, 2022 [ECF No. 21], is ADOPTED as the opinion of the court.

The Clerk of Court is instructed to mark this case CLOSED on the Court’s docket.

So ordered this 20th day of July, 2022.


SUSAN PARADISE BAXTER
United States District Judge